

## APPENDIX D TO DIR CONTRACT NO. DIR-SDD-1823

LMC Data Corporation  
61 Moulton Street  
San Francisco, CA 94123

### End User Service Agreement

#### Terms and Conditions

LMC Data Corporation agrees to provide to XXXXXXXX (“You or “Your””) the LMC Data Backup Solution(s) (the “Service”) for Your initial server (the “Initial Protected Server”) and any subsequent servers You may choose to add (together, the “Protected Servers”) to the Service, as described in the applicable Limited Warranty and Service Level Agreement (the “LWSLA”) in accordance with DIR-SDD-1823 and the following terms and conditions.

#### Term of Agreement

You subscribe for the number of months of Service shown in the Service Plan information below (the “Initial Term”) for all Protected Servers You enroll in accordance with the service plan described below. The Initial Term for Your Protected Servers commences on the date of this Agreement.

#### Service Fees and Payments

All charges for the LMC Data Backup Solution(s) under this Agreement shall be as specified below. Payments will be handled in accordance with Appendix A, Section 7C of DIR-SDD-1823. Any taxes will be handled in accordance with Section 4F of DIR-SDD-1823.

If You fail to pay the charges of LMC Data Corporation for a period of forty-five (45) days after the date of the invoice, LMC Data Corporation may, after providing ten (10) days prior notice by email, at its option (a) cease providing the Service and/or (b) refuse requests to restore Your data. If You are in arrears for a period of three (3) months or longer, LMC Data Corporation may, after providing ten (10) days prior notice by email, delete Your protected data. IN THE EVENT LMC DATA CORPORATION TAKES ANY ACTION PURSUANT TO THIS SECTION, IT SHALL HAVE NO LIABILITY TO YOU OR ANYONE CLAIMING BY OR THROUGH YOU. Nothing herein shall preclude LMC Data Corporation from pursuing other remedies authorized by statute or otherwise permitted by law.

#### Additional Terms and Definitions

You may add Protected Servers to Your service plan at any time. Charges for Your Service Plan are based upon the peak amount of server data under protection at any time during the monthly billing cycle, increased to the nearest full gigabyte, for each Protected Server for each of the options shown in Service Plan information below. Charges for a Protected Server that is added or deleted within a month are prorated for the number of days in the month that the Protected Server was subscribed to the Service. Charges are based on a minimum of 5 gigabytes (“GBs”) per Protected Server. The Price per GB (“PPG”) is the monthly fee per GB per month for each option as shown in Appendix C of DIR Contract No. DIR-SDD-1823. The Total Monthly Service Cost is the combined cost of all options calculated by multiplying the Price per GB by the number of GBs for each option.

The Minimum Monthly Dollar Commitment (“MMDC”) for monthly plans is the minimum fee You agree to pay each month. Each month, the Total Monthly Service Cost is calculated and compared to the MMDC. If the Total Monthly Service Cost is less than the MMDC, the MMDC will be the fee You are charged for the month. If the Total Monthly Service Cost is more than the MMDC, You will be charged that calculated amount. Monthly Pay Plans are billed in arrears.

**Service Renewals** - This Agreement provides for three (3) one (1) year optional renewals with written notice given provided to Customer by LMC and Customer concurrence prior to the then -expiration date. Any terminations will be handled in accordance to Appendix A, Section 10B of DIR Contract No. DIR-SDD-1823. Upgrades with higher financial commitment levels, which provide lower per GB prices, are permitted at anytime and will be effective the first day of the following month. For upgrades, the contract term is restarted to its original term commencing with the effective date of the upgrade. Upgrades of annual prepaid plans include a pro-rata credit for any unused portion of the smaller plan.

**Internet Restores** - Unlimited free, subject to abuse control provisions included in the applicable Service description.

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**Network Attached Storage (NAS) Restores** - \$2,000. This charge includes a two-week rental of the NAS device, commencing upon date of shipment. An additional rental fee shall be charged to You in the event the furnished NAS device is not returned by the expiration of the two week rental period, at the flat rate of \$2,000 for each additional 30 day period or portion thereof. LMC Data Corporation has no responsibility to arrange for return shipment.

#### Service Plan Information

Service Plan Order Code \_\_\_\_\_ Base GBs: \_\_\_\_\_

Monthly Cost per GB: \_\_\_\_\_ Retention Period: \_\_\_\_\_

Payment Option: (monthly or prepaid): \_\_\_\_\_ TurboRestore/s: \_\_\_\_\_

LMC Data Backup Solution(s) : Minimum Monthly Dollar Commitment: \_\_\_\_\_

Turbo Restore Device: \$

Contract Term (# of months): \_\_\_\_\_

**Customer hereby orders from LMC Data Corporation the Services and/or products described in this Agreement**

#### Authorized Signer

Company Name \_\_\_\_\_ Date: \_\_\_\_\_

Signature \_\_\_\_\_

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Title \_\_\_\_\_ email \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Tel # \_\_\_\_\_ Fax # \_\_\_\_\_

**Initial Administrator** (this individual will receive introductory sign on email to initiate the Service)

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Title \_\_\_\_\_ email \_\_\_\_\_

Preferred LMC Data Backup Solution(s) Username (spaces are allowed)

\_\_\_\_\_

( ) employee ( ) consultant ( ) LMC Data Corporation

Tel # \_\_\_\_\_ Fax # \_\_\_\_\_